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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,554

08/25/2003

Russell W. Gruhlke

10020858-1

5174

7590

12/23/2004

AGILENT TECHNOLOGIES, INC.

Legal Department, DL429

Intellectual Property Administration

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EXAMINER

CHOI, WILLIAM C

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/648,554	Applicant(s) GRUHLKE, RUSSELL W.	
	Examiner William C. Choi	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/25/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 15-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 11 is/are rejected.
- 7) ☒ Claim(s) 5, 9, 10 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group 1 (claims 1-14) in the reply filed on 10/25/2004 is acknowledged.

Claim Objections

Claims 13 (and dependent claim 14) is objected to because of the following: a series of singular dependent claims is permissible in which **a dependent claim refers to a preceding claim** which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. See MPEP § 608.01(n).

For purposes of examination, it was assumed that claim 13 was intended to depend on preceding claim 12. Claim 14 inherits the objection from parent claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosoburd et al (U.S. 5,760,871).

In regard to claim 1, Kosoburd et al discloses a monolithic multi-focal length refractive element (column 9, lines 12-30, Figure 5, "25") comprising: a single monolithic optical element blank (Figure 5, "25") comprising: a first surface region having a first characteristic radius of curvature (column 9, lines 20-22, Figure 5, "42"); and a second surface region having a second characteristic radius of curvature (column 9, lines 20-23, Figure 5, "44").

Regarding claim 6, Kosoburd et al discloses wherein said monolithic optical element blank comprises a third surface region having a third characteristic radius of curvature (column 9, lines 20-23, Figure 5, "46").

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinai (U.S. 3,610,924).

In regard to claim 1, Sinai discloses a monolithic multi-focal length refractive element (column 2, lines 57-60) comprising: a single monolithic optical element blank (column 2, lines 57-60) inherently comprising: a first surface region having a first characteristic radius of curvature and a second surface region having a second

characteristic radius of curvature, this being reasonably assumed from said lens inherently having front and rear lens surfaces.

Regarding claim 2, Sinai discloses wherein the value of an optical property for said first surface region is different from a value of said optical property for said second surface region (column 1, lines 48-57).

Regarding claim 3, Sinai discloses wherein said optical element blank comprises silica (column 2, lines 66-70).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7, 8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kornblit et al (U.S. 2004/0184155 A1).

In regard to claim 7, Kornblit et al discloses a method for making a multi-focal length refractive element (page 5, section [0066] and page 2, section [0032], re “anamorphic”, Figures 3-9), said method comprising: forming in an optical element blank a first surface region characterized by a first radius of curvature and a second surface region characterized by a second radius of curvature (page 2, section [0032], re “anamorphic”, Figures 3-9).

Regarding claim 8, Kornblit et al discloses wherein said forming said first surface region comprises etching said optical element blank using a first etch process having a first etch selectivity (page 5, section [0068]).

Regarding claim 11, Kornblit et al discloses wherein said method additionally comprises forming a first shape transfer mask and etching said first shape transfer mask using a first etch process (page 5, section [0068], lines 3-6, Figure 3, "85").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinai as applied to claim 2 above, and further in view of Liao et al (U.S. 5,618,474).

With respect to claim 4, Sinai discloses as set forth above, but does not specifically disclose wherein the said optical element blank comprises gallium arsenide (GaAs). Within the same field of endeavor, Liao et al teaches that it is well known in the art for monolithic multi-focal refractive elements to comprise gallium arsenide, since it is an optical material capable of being mass-transported (column 3, lines 42-46 and column 4, lines 13-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the optical element blank of Sinai to comprise gallium arsenide since Liao et al teaches that it is well known in the art for

monolithic multi-focal refractive elements to comprise gallium arsenide, since it is an optical material capable of being mass-transported.

Allowable Subject Matter

Claims 5, 9, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach a combination of all the claimed features as presented in claim 5: a monolithic multi-focal length refractive element comprising a single monolithic optical element blank comprising a first and second characteristic radiuses of curvature as claimed, specifically wherein said element has a maximum dimension of less than five millimeters.

The prior art fails to teach a combination of all the claimed features as presented in claims 9 and 10: a method for making a multi-focal length refractive element comprising forming first and second surface regions characterized by respective radiuses of curvature as claimed, specifically wherein said forming said second surface region comprises etching said optical element blank using a second etch process having a second etch selectivity.

The prior art fails to teach a combination of all the claimed features as presented in claim 12: a method for making a multi-focal length refractive element comprising forming first and second surface regions characterized by respective radiuses of

curvature as claimed, specifically further comprising etching said first shape transfer mask using a second etch process.

Claims 13 and 14 would be allowable if rewritten to overcome the objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach a combination of all the claimed features as presented in claims 13 and 14: a method for making a multi-focal length refractive element comprising forming first and second surface regions characterized by respective radiuses of curvature as claimed, specifically further comprising forming a second shape transfer mask.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Choi whose telephone number is (571) 272-2324. The examiner can normally be reached on Monday-Friday from about 9:00 am to 6 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

b.c

William Choi
Patent Examiner
Art Unit 2873
December 13, 2004


Georgia Epps
Supervisory Patent Examiner
Technology Center 2800